

CASE NO. 1:12-CV-3524 CAP

Martha J. Frutchey, U.S. District Reporter

1 **Tuesday, July 30, 2013**

2 THE COURT: Sound case 12-CV-2524, Julie Chrisley versus
3 Mark Braddock and others set down today for hearing. Let me get
4 my list here. Is Julie Chrisley here?

5 MR. BARR: She is, Your Honor.

6 THE COURT: Okay. Well, usually I ask who is
7 representing the plaintiff, but I have motions pending from two
8 sets of lawyers to be relieved from representing Ms. Chrisley
9 further. All right. Mr. Barr is here on behalf of his law firm
10 and presently Ms. Chrisley. Thompson Law Group, do they have a
11 representative here?

12 MR. THOMPSON: Robert Thompson, Your Honor.

13 THE COURT: All right. And who is here on behalf of
14 Mr. Braddock?

15 MR. STANTON: Todd Stanton, Your Honor.

16 THE COURT: Okay. And Alina Clerie?

17 MR. MAXIM: Good afternoon, for Alina Clerie.

18 THE COURT: And Key Asset Solutions. Mr. Stanton, do
19 you represent them too?

20 MR. STANTON: That's me.

21 THE COURT: Now, Private Peering Point, LLC has been
22 terminated. But ARC Auto Brokers, from what I can determine
23 from my docket is still involved.

24 MR. MAXIM: Yes, Your Honor. Kevin Maxim representing
25 ARC Auto Brokers as well.

1 THE COURT: And Kimberly Childs is represented by -- is
2 anybody here on behalf of Kimberly Childs?

3 MS. FILBERTO: Crystal Filberto, Your Honor, and Rush
4 Smith.

5 THE COURT: Okay. Well, I had a terrible time figuring
6 this out. Let me mention to you, when I set this hearing I kept
7 the rest of the afternoon free, but yesterday I was informed
8 that I'm going to have to go to a meeting at three o'clock with
9 Judge O'Kelley and Judge Carnes that should take about
10 forty-five minutes to an hour. So if I can't finish this in an
11 hour, I may ask you to be back here at four o'clock or be back
12 here later in the week.

13 Let's see what I want to start with first. I have a
14 motion by Ms. Childs for sanctions. Let me just see where I can
15 start. Well, let me try this. It's my understanding that
16 Chrisley Asset Management, LLC is now in bankruptcy and they are
17 not a party to this lawsuit. Am I correct or incorrect?

18 MR. BARR: They are not a party to this lawsuit, and it
19 is our understanding as well, Your Honor, on behalf of Ms.
20 Chrisley that CAM is currently in bankruptcy in the Northern
21 District of Georgia.

22 THE COURT: And a trustee has been appointed.

23 MR. BARR: I don't know whether the trustee has formally
24 been appointed, but we have communicated with an attorney who
25 has indicated directly to us that he plans to be the trustee,

1 but there has not been a formal appointment, as I understand it,
2 yet.

3 MR. STANTON: I believe that the trustee has been
4 appointed. I'm not sure if he's accepted.

5 THE COURT: Let me make sure I understand something.
6 It's my belief at no time from the time this lawsuit was filed
7 was Ms. Chrisley acting in an official capacity on behalf of
8 Chrisley Asset Management, so it is my belief they have never
9 been a party to this lawsuit. Am I correct?

10 MR. BARR: I'm sorry. That what?

11 THE COURT: That Chrisley Asset Management, LLC has
12 never been a party to this lawsuit.

13 MR. BARR: That is correct, Your Honor.

14 THE COURT: Okay. Now, let's see. Pacific Development
15 is out. Private Peering is out. Okay. Let me ask. At this
16 time there have been or are now two cases in Fulton Superior
17 Court, and the best we could figure out, one may be terminated,
18 but the other one has not been.

19 What is the status of the cases in Fulton County,
20 Chrisley versus Braddock? I'm particularly interested in Fulton
21 case 2012 CV 219963 that Al Dempsey has, Judge Dempsey.

22 MR. BARR: Yes. In a word, confused, Your Honor, in
23 terms of the status. We are not representing any of the
24 parties, certainly not Ms. Chrisley, in those actions, but it's
25 our understanding after reviewing on a regular -- as regular a

1 basis as we can, that there are still matters actively before
2 Judge Dempsey, possibly also on appeal in the state system, but
3 there may be questions later on that come up in that case about
4 the exact status of it. All I can do is state in my place, Your
5 Honor, that as far as we can tell, there are still aspects of
6 those matters still pending before Judge Dempsey.

7 MR. STANTON: I'd be happy to give you the status of all
8 of those cases, Your Honor.

9 THE COURT: All right. Well, my next question is going
10 to be are the issues in the Fulton County case the same as the
11 issues in this case?

12 MR. STANTON: That is difficult to say, Your Honor.
13 Currently the way this was initiated, and I apologize for the
14 confusion and the longer story, but it's the only way to get it
15 done. There was originally a Temporary Restraining Order filed
16 on August the 14th of 2012 by Mrs. Chrisley against Mr. Braddock
17 in the Superior Court. That case was eventually, after several
18 machinations, assigned to Judge Dempsey. Judge Dempsey
19 appointed, or the presiding judge, Judge Schwall, before it was
20 assigned to the probate judge, Judge Dempsey, appointed Lee
21 Nicholson as a receiver.

22 Over the next couple of months Mr. Nicholson served as a
23 receiver until the beginning of October, at which time
24 Mr. Braddock became aware that Mr. Nicholson issued a check for
25 about \$220,000 to Ms. Chrisley while the company was in

1 receivership.

2 That afternoon we filed an emergency motion to have that
3 money returned. Judge Dempsey ordered that money returned and
4 gave Ms. Chrisley four days and Mr. Nicholson four days to
5 comply. She did not comply, and eventually that became -- after
6 she was ordered to comply, Ms. Chrisley, through the Thompson
7 Law Group, dismissed the receivership action, tried to dismiss
8 it, which did not have any effect simply because it's a
9 receivership action, they couldn't terminate it, and appealed
10 that matter, appealed the Order to return the money.

11 THE COURT: The contempt Order.

12 MR. STANTON: No, sir. We are not there yet.

13 THE COURT: Oh.

14 MR. STANTON: So that Order the appeal was based upon
15 what Ms. Chrisley believed was Mr. Dempsey or Judge Dempsey's
16 lack of authority to enter an Order after they tried to end the
17 receivership. The Court of Appeals rejected the appeal and
18 allowed Judge Dempsey to continue.

19 Fast forward in the parallel federal proceedings, we had
20 on October the 9th, the original 71-page Complaint was filed
21 just after the appeal was filed with the Georgia Court of
22 Appeals, largely cut and pasting the allegations out of the
23 receivership -- excuse me, out of the temporary injunction into
24 the Complaint.

25 That matter continued in this court, as you are aware,

1 through the Thompson Law Group's motion for withdrawal and
2 through the repleader.

3 On February the 14th, I believe, there was a hearing in
4 front of Judge Dempsey with respect to Ms. Chrisley's failure to
5 return the \$220,000 as directed. She demanded, and Judge
6 Dempsey granted a jury trial on her alleged failure -- the
7 inability to pay defense to return that 220. Her position all
8 along has been that she does not have money to return to CAM as
9 directed by Judge Dempsey.

10 During that hearing as well, Judge Dempsey asked that
11 she post a bond, required that she post a bond by February 20th
12 in the amount of \$220,000. He then found Ms. Chrisley in
13 contempt for failure to produce financial records as directed in
14 his October 5th Order, I believe. That matter was appealed as
15 well.

16 Both of those appeals, one of which she is appealing an
17 Order that she won, the jury trial, and it's been briefed, and
18 appealing the Order on contempt has been briefed. We asked to
19 supplement the record with the Court of Appeals. The Court of
20 Appeals sent the matter back to the Fulton County Superior
21 Court, had the record supplemented, and that's where that sits.

22 So it is still active in front of Judge Dempsey. There
23 will be a jury trial forthcoming hopefully sometime in the fall
24 on Ms. Chrisley's alleged inability to pay the \$220,000, as well
25 as whether or not she purged herself of contempt by submitting a

1 series of financial documents.

2 THE COURT: But that's sort of a side issue of what the
3 original suit was about.

4 MR. STANTON: There are a lot of side issues, yes, Your
5 Honor. The original suit --

6 THE COURT: I have an Order from Georgia Court of
7 Appeals, June 6th, 2013. Basically, the way I understand it, it
8 went up there on appeal. Nobody can figure out what the record
9 is. Everybody wants to supplement the record, so the Court of
10 Appeals said we are remanding it back. You all can figure out
11 your record and come back and see us later.

12 MR. STANTON: Yes, sir; yes, Your Honor.

13 THE COURT: But that appeal is on the contempt or both
14 Orders?

15 MR. STANTON: Yes.

16 THE COURT: On both Orders?

17 MR. STANTON: Both Orders; the Order for a jury trial
18 granting her demand for a jury trial, as well as the Order on
19 contempt.

20 THE COURT: All right. But that case started out
21 basically with the same Complaints by Ms. Chrisley as this case.

22 MR. STANTON: I'm not going to say that it is identical,
23 no, Your Honor. The Complaint that was filed wasn't even --
24 plaintiff will take the position it wasn't a Complaint. It was
25 simply an action for a TRO to enjoin Mr. Braddock and Ms. Clerie

1 from entering the CAM premises or having anything to do with the
2 CAM operations. It wasn't a Complaint. It didn't ask for
3 damages or anything else, just asked for an injunction.

4 Again, when that ended up in front of Judge Dempsey,
5 Judge Dempsey did not take kindly to the way that it had been
6 presented to Judge Schwall. Basically said, I'm in charge now,
7 and that's when we went through with the contempt motion.

8 THE COURT: Meanwhile, I'm totally lost here. There was
9 another lawsuit, 2012 CV 222070, Easy Title Loans versus Pacific
10 Development Partners -- no, Easy and Pacific versus Grace
11 Realty, Key Asset, Buckhead, LLC and Mark Braddock.

12 MR. STANTON: Correct. That was a matter also filed by
13 Ms. Chrisley to -- is, as far as I know, a member of Easy Title
14 Loans, LLC. She sued on behalf of Easy Title and Pacific.
15 Pacific Development Partners is a company that is wholly owned
16 by my client, Mr. Braddock, so she was suing my client with a
17 company that he owned. We made a motion to prove authority in
18 that matter. It was not responded to and eventually that suit
19 was dropped.

20 THE COURT: Dismissed without prejudice.

21 MR. STANTON: Dismissed without prejudice. That had to
22 deal with what Ms. Chrisley alleged was the wrongful foreclosure
23 of a multi million dollar property on 830 West Conway. That
24 matter had gone to foreclosure sale and that was their attempt
25 to undo that foreclosure sale.

1 THE COURT: Well, let me ask it another way. Is there
2 overlap in the issues that are now -- well, no.

3 MR. STANTON: Your Honor, I don't believe there is any
4 overlap.

5 THE COURT: According to you, really there is not -- I
6 don't know what you call it pending. It's not a lawsuit. It is
7 some kind of motion for a TRO in Superior Court?

8 MR. STANTON: Well, that has been purportedly dismissed,
9 Your Honor. That was the -- Thompson Law Group purportedly
10 dismissed that TRO and in an effort to avoid the Order to return
11 the money from Judge Dempsey. All right? So the receivership,
12 CAM stayed in receiver and is still in receivership through
13 bankruptcy. Mr. Nicholson, the original receiver, was removed
14 by Judge Dempsey on October the 20th of 2012, at which time the
15 Order to return the funds was -- excuse me. Judge Dempsey
16 replaced Lee Nicholson as receiver on October 20th, at the same
17 time that he ordered Ms. Chrisley to produce financial records
18 demonstrating her inability to pay.

19 The only matters pending before Judge Dempsey will be
20 the contempt matter coming up in the fall, as soon as the appeal
21 is resolved. And quite frankly, no matter which way the Court
22 of Appeals comes down, there is still going to be a jury trial
23 on her alleged inability to pay. It's inconsequential what the
24 Court of Appeals rules.

25 THE COURT: All right. Well, let's talk about at docket

1 34. Ms. Childs has a motion for sanctions. I'd like to know
2 who that motion is against, because the motion keeps talking
3 about plaintiffs, and in the brief, in reading the brief I think
4 you are trying to get sanctions against both Ms. Chrisley and
5 the Thompson Law Group. Tell me about your motion, please.

6 MS. FILBERTO: Yes, Your Honor. Our motion, I think the
7 confusion with the plaintiffs being plural in the beginning was
8 at that point if you recall our motion was filed back in early
9 December before the parties had a chance to hash out whether or
10 not CAM was supposed to be a named party to this case or not.
11 So our motion for sanctions is against the plaintiff, Ms.
12 Chrisley.

13 THE COURT: And not against Thompson Law Group?

14 MS. FILBERTO: Your Honor, to the extent that --

15 THE COURT: The reason I'm asking, Thompson Law Group
16 wants out. If your motion for sanctions is going to involve
17 Thompson Law Group, I may not be so anxious to let them out.

18 MS. FILBERTO: Well, I believe it involved Thompson Law
19 Group to the extent the initial filings and everything were done
20 on their behalf.

21 THE COURT: Wait a minute. I just want to know who you
22 are seeking sanctions against.

23 MS. FILBERTO: Both of them, Your Honor.

24 THE COURT: But you are not seeking sanctions against
25 Mr. Barr or his law firm.

1 MS. FILBERTO: No.

2 THE COURT: Or Pacific Development. For some reason I
3 put down Pacific Development.

4 MS. FILBERTO: No.

5 THE COURT: Okay. So Ms. Chrisley wouldn't have any
6 objection to releasing -- or Ms. Childs wouldn't have any
7 objection to releasing Mr. Barr, or may have an objection to
8 releasing Thompson Law Group?

9 MS. FILBERTO: That's correct, Your Honor.

10 THE COURT: All right. Well, let me get -- skip to
11 how -- I know this may not make sense to you, how I'm going
12 through this. But all right. At docket 64, 65, 66 and 67 there
13 are motions to dismiss. My question on those, because we really
14 didn't include those in our notice today, are those ready for
15 the Court to rule on?

16 MR. BARR: From our standpoint, yes, Your Honor. They
17 have been fully briefed.

18 THE COURT: Sometimes lawyers have agreements among
19 themselves somehow, but I just want to make sure, because I have
20 given extensions, I think on those, but they are ready for me to
21 rule on. Okay. Well, let me ask Ms. Chrisley. Do you have any
22 objections to the Court releasing Mr. Barr as your attorney?

23 MS. CHRISLEY: No, sir.

24 THE COURT: Are you going to employ some attorney to
25 represent you at this point forward?

1 MS. CHRISLEY: Yes, sir.

2 THE COURT: Who is that?

3 MS. CHRISLEY: I have employed Mr. Jim Deichert and
4 Mr. Steve Kushner, and with their help they are going to -- with
5 their advisement they are going to help me to find someone to
6 represent me from here on out.

7 THE COURT: Wait a minute. Mr. Kushner and Mr. Deichert
8 are not going to represent you?

9 MS. CHRISLEY: They are representing me on other
10 matters, but for this --

11 THE COURT: I want to know who is going to make an
12 appearance in this case on your behalf from today forward before
13 I let Mr. Barr out.

14 MS. CHRISLEY: Okay.

15 THE COURT: I don't want to leave you without an
16 attorney.

17 MS. CHRISLEY: Yes, sir. Could you give me thirty days
18 to do that?

19 THE COURT: No. You have had notice of his motion. You
20 have had notice of his --

21 MS. CHRISLEY: Okay.

22 THE COURT: But you don't know today. Is that right?

23 MS. CHRISLEY: No, sir.

24 THE COURT: Okay.

25 MS. CHRISLEY: I can tell you that Mr. Kushner and

1 Mr. Deichert have been retained, but they are not going to
2 handle this particular matter in regards to the case.

3 THE COURT: Well, that doesn't make sense. Either they
4 have been retained for this case, are going to represent you, or
5 they haven't been retained for this case. I assume what you
6 mean is they have been retained in other matters.

7 MS. CHRISLEY: Yes, sir.

8 THE COURT: All right. Well, let's see. Well, let me
9 address the next one, the Thompson Law Group. Do you want to be
10 heard on your motion to withdraw?

11 MR. THOMPSON: Yes, Your Honor.

12 THE COURT: All right.

13 MR. THOMPSON: I might add, though, that the defendant,
14 Kimberly Childs, motion for sanctions, the only entity or person
15 addressed in the conclusion and throughout is the plaintiffs.
16 We never have been a plaintiff in this case.

17 THE COURT: Well, that caused me some confusion too, but
18 then one of their briefs sort of targeted you. That's the
19 reason I asked the young lady over here who they wanted to
20 sanction. Let's see. Well, I don't know if I can sit here and
21 find it now, but I have been reading the brief. There wasn't
22 much question in my mind that they were wanting to proceed
23 against Chrisley and the Thompson Law Group, but then just
24 reading the motion, itself, a lot of it just talks about
25 plaintiff or plaintiffs, and I had that concern myself, but I

1 don't at this instance.

2 MR. THOMPSON: Right, Your Honor. The reply brief
3 mentioned that, but the original motion just focused on --

4 THE COURT: Well, I'll let them amend their motion. You
5 have ten days to amend your motion.

6 MS. FILBERTO: Thank you, Your Honor.

7 THE COURT: And I will not rule on the motion to
8 withdraw by the Thompson Law Group. Now, I'm trying to think if
9 there is any reason I shouldn't -- Well, let me just direct Ms.
10 Chrisley to notify the Court within fourteen days of today who
11 your new attorney is going to be.

12 MS. CHRISLEY: Yes, sir.

13 THE COURT: And when you notify me, it's my inclination
14 here, I'm not going to promise you this, but I'll let Mr. Barr
15 and his firm out.

16 MS. CHRISLEY: Okay.

17 THE COURT: Okay. Are there any other matters we need
18 to talk about today? Oh, what a mess.

19 MR. BARR: We have none, Your Honor.

20 THE COURT: Well, I have got a lot of other questions,
21 but I don't think I'm going to ask them today. I'll wait for
22 Ms. Chrisley's new attorney to get in and see what they are
23 going to do, and then I'll let them amend as to the sanctions,
24 clarify that, and then we'll deal with that.

25 In the meantime, probably it would be helpful if the

1 Court would go on and rule on the motions to dismiss. We'll try
2 to get that done. All right. Any other questions you have for
3 me or any other matters of business we need to come up with?

4 MR. BARR: So as of now, Your Honor --

5 THE COURT: You are still in.

6 MR. BARR: We are still in.

7 THE COURT: Until you get an Order saying you are out.

8 MR. BARR: We understand.

9 THE COURT: But I don't expect you to be doing a whole
10 lot, except just holding the fort until she gets a new lawyer.

11 MR. BARR: Thank you, Your Honor.

12 THE COURT: Okay. All right. Well, thank you very
13 much.

14 MS. CHRISLEY: Thank you.

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C E R T I F I C A T E

I, Martha J. Frutchey, do hereby certify that I am a U.S. District Court Reporter for the Northern District of Georgia, Atlanta Division; that I reported the foregoing and the same is a true and accurate transcription of my shorthand notes as taken aforesaid.

Martha J. Frutchey